

§ 598.402

§ 598.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 598.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed pursuant to this part results in the transfer of property (including any property interest) away from a specially designated narcotics trafficker, the transferred property will no longer be considered property in which that person has or has had an interest. Provided no other specially designated narcotics trafficker has any interest in the transferred property following the transfer, the transferred property will no longer be considered property blocked pursuant to § 598.202.

(b) Unless otherwise specifically provided in a license issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated narcotics trafficker, such property shall be deemed to be property in which that person has an interest, and such property is therefore blocked pursuant to § 598.202.

§ 598.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. financial institution or other U.S. person, is a prohibited transfer under § 598.203 if effected after the effective date.

§ 598.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary

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to give effect to the licensed transaction is also authorized by the license. Except as specifically authorized by the terms of a license, prohibited transactions by specially designated narcotics traffickers and debits to accounts blocked pursuant to § 598.202 are not considered incidental to a licensed transaction and therefore remain prohibited.

§ 598.406 Provision of services.

(a) The prohibitions contained in § 598.203 apply to services performed by U.S. persons, wherever located:

(1) On behalf of or for the benefit of a specially designated narcotics trafficker; or

(2) With respect to property interests of a specially designated narcotics trafficker.

(b) Example: U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a specially designated narcotics trafficker. See § 598.507 on licensing policy with regard to the provision of certain legal services.

§ 598.407 Offshore transactions.

The prohibitions contained in § 598.203 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, that a specially designated narcotics trafficker has or has had an interest since the effective date.

§ 598.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.

(a) A change or alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker shall not be the basis for removal of that entity from the list of specially designated narcotics traffickers unless, upon investigation by the Office of Foreign Control and submission of evidence by the entity, it is demonstrated to the satisfaction of the Director of the Office of Foreign Assets Control that the transfer to a bona fide purchaser at arm's length, or other

means of changing ownership or control, is legitimate and that the entity no longer meets the criteria for designation under § 598.314. Evidence submitted must conclusively demonstrate that all ties with other specially designated narcotics traffickers have been completely severed, and may include, but is not limited to, articles of incorporation; identification of new directors, officers, shareholders, and sources of capital; and contracts evidencing the sale of the entity to its new owners.

(b) Any continuing substantial financial obligations on the part of the new owners to any specially designated narcotics traffickers, including long-term payment plans, leases, or rents, will be considered as evidence of continuing control of the entity by the specially designated narcotics trafficker. Purchase of a designated entity without ongoing substantial financial obligations to a specially designated narcotics trafficker may nonetheless be a basis for subsequent designation of the purchaser, if the transaction is determined materially to assist in or provide financial support for the international narcotics trafficking activities of specially designated narcotics traffickers for purposes of § 598.314(b)(1). For example, any acquisition transaction resulting in a direct cash transfer to or other enrichment of a specially designated narcotics trafficker could lead to designation of the purchaser. Mere change in name of an entity will not be considered as constituting a change of the entity's status.

§ 598.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 598.203 on dealing in property in which a specially designated narcotics trafficker has an interest prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a specially designated narcotics trafficker.

§ 598.410 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. per-

sons or other persons, including payment for goods or services exported prior to the effective date of the blocking, except as authorized pursuant to this part.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 598.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[65 FR 41336, July 5, 2000, as amended at 68 FR 53660, Sept. 11, 2003]

§ 598.502 Effect of license.

(a) No license contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control pursuant to this part, authorizes or validates any transaction effected prior to the issuance of the license, unless the prior transaction is specifically authorized in such license.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited by this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part authorizes any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing from the transaction a prohibition or prohibitions contained in this part, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest that would not otherwise exist under ordinary principles